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# FINAL RECOMMENDATIONS FOR THE BUREAU FOR PRIVATE POSTSECONDARY AND VOCATIONAL EDUCATION (Bureau)

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## RECOMMENDATIONS OF THE JOINT SUNSET REVIEW COMMITTEE AND THE DEPARTMENT OF CONSUMER AFFAIRS

### **ISSUE #1: (CONTINUE REGULATION OF THE PROFESSION BY THE BUREAU?)**

Should the licensing and regulation of private postsecondary and vocational institutions by the Bureau for Private Postsecondary and Vocational Education of the Department of Consumer Affairs be continued?

**Recommendation #1a:** *The Joint Committee and the Department recommend that the Bureau be retained within the Department of Consumer Affairs for two years, to allow for consideration of Master Plan recommendations.*

**Recommendation #1b:** *The Joint Committee and the Department further recommend that the JLSRC review the Bureau and the results of Master Plan proposals again in two years, and at that time address the issue of potential consolidation of some higher education programs.*

**Comments:** Throughout discussions with other agencies and the Legislature, the Department has stressed the importance of maintaining – and continuing to clarify and strengthen – regulation of the business and student protection practices at all postsecondary education institutions. While the Department has indicated its openness to consideration of consolidation proposals that may be considered by the Legislature in the coming months, it has also indicated that it would not serve California’s postsecondary education students or schools well to relocate the Bureau at this time.

**ISSUE #2: (NEED TO REGULATE OUT-OF-STATE INSTITUTIONS OFFERING EDUCATIONAL PROGRAMS AND DEGREES OR DIPLOMAS.)** State laws regulating private postsecondary and vocational institutions that are administered by the Bureau to protect students and the public against fraud and inadequate education do not regulate institutions that are out-of-state and are offering educational programs and degrees or diplomas via the Internet to California students.

**Recommendation #2:** *The Joint Committee and the Department recommend that the working group initiated by the JLSRC Chair, Senator Figueroa, that is developing an improved statute also examine the need to regulate out-of-state postsecondary institutions that offer educational programs to California students via the Internet.*

**Comments:** Increasingly postsecondary and vocational education programs and diplomas and degrees are being offered from schools located outside of California to California students through correspondence courses and electronic media – especially the Internet. The current Reform Act does not provide the Bureau with the legal authority to regulate these institutions and assure the quality and integrity of their programs and degrees, and the protection of their California students. Given the interstate nature of these enterprises, and the lack of a physical location, it is doubtful that California alone can either legally or effectively regulate these institutions and their educational programs despite the significant impact they may have on Californians. There has been some work on this being done by groups at the national level. The Bureau indicates that it has not received many complaints regarding these educational institutions or programs from students. This area seems to represent a serious and apparently increasing gap in the regulatory protection intended by the enactment of the Reform Act – and efforts should be made to address it before it creates a recurrence of the “diploma mill” and student fraud and misrepresentation problems California experienced in the 1980’s.

**ISSUE #3: (ARE THERE ADEQUATE REVENUES AND ARE THEY COMMENSURATE WITH BUREAU’S VARIOUS COSTS AND EXPENDITURES?)** It is unclear if the Bureau’s fees and sources of revenues are related to and commensurate with the costs and expenditures of the Bureau’s different programs or if there is cross-subsidization.

**Recommendation #3:** *The Joint Committee and the Department recommend a review of the Bureau’s fee structure.*

**Comments:** The Department recommends that the Bureau’s fee structure be reviewed and modified, if appropriate. This review should focus on penalties for late filing of annual reports, for non-payment of annual fees, and for non-payment of STRF payments. Additionally, the Department has directed the Bureau to ensure attention to the collection of renewal fees.

**ISSUE #4: (NEED FOR IMPROVED AND TIMELY DATA COLLECTION AND DISSEMINATION?)** Data collection and dissemination from the private postsecondary and vocational education sector that is similar to the data available from the public postsecondary sector appears inadequate.

**Recommendation#4:** *The Joint Committee and the Department recommend improvements and modifications to the Bureau’s information and data systems.*

**Comments:** In an effort to remedy antiquated and non-integrated information and data systems brought to the Bureau by the former Council for Private Postsecondary and Vocational Education, the Bureau initiated the development of a new automated system. This new system is expected to provide improved monitoring of reports, initial and renewal applications, complaint and enforcement records, and collection of fees.

The Department concurs with the JLSRC that additional improvement is needed and is committed to working with the Bureau to complete the institution of a system that will serve the Bureau's wide-ranging data management needs effectively.

**ISSUE #5: (CONCERNS AND CRITICISM THAT THE BUREAU IS FAILING TO ADMINISTER THE VARIOUS PROVISIONS OF THE REFORM ACT EFFECTIVELY.)** There has been widespread criticism that the Bureau has failed to administer the various provisions of the Reform Act - including those governing institutional approvals, operation of the STRF, handling of student complaints, protection of students against violations of the act by institutions and school closures, collection of information and fees.

***Recommendation #5:*** *The Joint Committee and the Department recommend the appointment of an Operations Monitor.*

**Comments:** The Department recommends that an external operations and administrative monitor be retained by the Department, and paid for by the Bureau, to further assess the Bureau's school approval, applicant review, revenue collection, and complaint and enforcement processes and procedures.

The Department has previously utilized external monitors to evaluate programs at the Contractors State License Board, the Dental Board and the Medical Board, and has found this approach to be enormously helpful.

**ISSUE #6: (EXPAND BUREAU OUTREACH TO POTENTIAL PRIVATE POSTSECONDARY STUDENTS?)** Concerns have been raised that the information regarding private postsecondary and vocational educational institutions is inadequate and does not reach students prior to the time they must make a decision regarding their higher educational plans.

***Recommendation #6:*** *The Joint Committee and the Department recommend that the Bureau establish an expanded outreach program for students.*

**Comments:** Because California's high school students have many options when making their postsecondary plans, it is important that they are provided with information on how best to select postsecondary or vocational schools, how to enter into contracts and student enrollment agreements, how to protect themselves in this marketplace, and how to contact the Bureau for assistance should problems arise. The Department recommends that the Bureau develop a plan to reach high school students before while they are still in school.

**ISSUE #7: (BUREAU ISOLATED FROM ITS STAKEHOLDERS AND OTHER STATE EDUCATIONAL OVERSIGHT AND REGULATION?)** The Bureau appears to operate in isolation from the State's regulation of other educational programs – being located in the Department of Consumer Affairs whose constituent licensing regulation is focused on the conduct of businesses and occupations, and not educational endeavors.

***Recommendation #7:*** *The Joint Committee recommends that the Bureau should establish its statutorily-required advisory committee, including representation from its various stakeholders, and include a representative of the California Postsecondary Education Commission (CPEC.) A representative of the Bureau should be included on CPEC – in at least an ex-officio position – to participate in the latter's deliberations.*

**Comments:** The Bureau is in the process of establishing its Advisory Committee and will include a representative of the California Postsecondary Education Commission. The Bureau advises the Department that it has identified potential advisory committee members and intends to complete establishment of the committee shortly.

Prior to the establishment of the Bureau as the agency responsible for administering the Reform Act, regulation and oversight of private postsecondary and vocational education institutions was performed by state governmental agencies whose primary focus was education, namely – the Department of Education and the Council for Private Postsecondary and Vocational Education. Both of these agencies had advisory or governing membership representing educational governmental representatives, the public, students, regulated educational institutions and the Legislature.

**ISSUE #8: (ADDRESS DEFICIENCIES IDENTIFIED IN AUDITS OF THE BUREAU?)** Two audits of the BPPVE have revealed shortcomings in the agency's operations.

***Recommendation #8:*** *The Joint Committee recommends that the Bureau should address and resolve the deficiencies found in the audit performed by the DCA Internal Audit Office, as well as any outstanding findings and recommendations from the 2000 Bureau of State Audits audit.*

**Comments:** The Bureau is addressing deficiencies identified in the Department's internal audit, including a focus on reduction of school approval backlog. In response to the Department's Internal Audit Office findings, the Department immediately triaged an administrative team to develop and direct implementation of a plan to address the audit recommendations. As part of that plan, the Bureau has revised its Strategic Plan to include action plans, timelines and deliverables that are directly responsive to the Department's audit. The Department has directed the Bureau to continue its focus on reduction of the school approval backlog. The Department and its Internal Audit Office have required the Bureau to submit 60, 180 and 360 day specific corrective action reports to ensure full response to the audit recommendations.

The Department's November 2002 Internal Audit made the following Findings and Recommendations, and the Bureau's Responses are as follows:

1. Finding: The Bureau needs to modify its current Strategic Plan to include important elements necessary to assist management in measuring the success of its operations.  
Recommendations: The Bureau should work with the eGovernment and Special Programs Division [of the Department] to develop action plans that address strategies, ownership responsibilities, deliverables and targeted dates. Internal and external stakeholders should have the opportunity for input during this process.  
Bureau Response: The Bureau agreed with the finding and has proposed specific corrective action.
2. Finding: Improvements are needed to address deficiencies in the Bureau's institution approval process.  
Recommendations: The Bureau should consistently use written policies and procedures to ensure that staff perform consistent and adequate institution approvals and retain sufficient evidence in the files to support compliance with the applicable laws and regulations. In addition, staff should be adequately trained to reinforce the Bureau's institution approval policies, procedures, laws and regulations. Further, the Bureau needs to implement a process to periodically monitor workload to ensure that appropriate statutory and regulatory processing times are met. As part of this process, a quality control review should be established. The quality control reviews should include an adequate review of the completed institution files.  
Bureau Response: The Bureau agreed with the finding and has proposed specific corrective action.
3. Finding: The Bureau is not collecting all the required fees and assessments.  
Recommendations: The Bureau should continue with its reconciliation process for all institutions. The Bureau should set up a collection process to ensure that fees and assessments are collected and take disciplinary action against non-paying institutions. Also, internal procedures should be established for billing and collection processes. Finally, the Bureau should continue with the development of the revenue-tracking module for its new SAIL information management system.  
Bureau Response: The Bureau agreed with the finding and has proposed specific corrective action.
4. Finding: The Bureau's STRF payment process is operational, but several factors have prevented the Bureau from making timely payments to students.  
Recommendations: The Bureau should continue with the adoption of the proposed STRF regulations. After regulations become effective, the Bureau needs to ensure that it collects all outstanding STRF funds that have not been paid. The Bureau should also take steps to ensure payment of STRF claims in accordance with the statutory laws. Furthermore, the Bureau should reestablish its STRF verification process to ensure that all institutions are properly calculating and paying their STRF assessments.  
Bureau Response: The Bureau agreed with the finding and has proposed specific corrective action.
5. Finding: Complain medication has improved; however, further progress is needed to ensure adequate consumer protection.  
Recommendations: The Bureau should develop its complaint handling procedures. As part

of this process, the Bureau should develop time processing goals to reduce its pending complaints. Procedures should also be developed for timely complainant communication, proper disciplinary actions, retaining adequate case file documentation and an adequate quality control review.

Bureau Response: The Bureau agreed with the finding and has proposed specific corrective action.

6. Finding: The Bureau has not ensured that all approved institutions comply with the annual reporting requirements but has made progress in recent years.

Recommendations: The Bureau should continue its effort to obtain the required annual reports. The Bureau should also take appropriate disciplinary actions for institutions not complying with the statutory law. The Bureau also needs to develop procedures for reviewing the financial and educational program information as required by the applicable laws.

Bureau Response: The Bureau agreed with the finding and as proposed specific corrective action.

7. Finding: The SAIL [Bureau's new information management system] addresses several of the Bureau's current information system inadequacies but does not comply with the State IT project requirements.

Recommendation: The Bureau should take action to ensure that the SAIL system conforms to State IT requirements. In addition, the Bureau needs to develop the required system documentation. The Bureau should also develop a backup plan in the event the IT staff developing and programming the system separates from the Bureau.

Bureau Response: The Bureau agreed with the finding and has proposed specific corrective action.

8. Finding: The Bureau generally enforced eligibility requirements prior to issuing agent permits and certificates of authorization for service but needs to address deficiencies in its processes.

Recommendation: The Bureau should improve its existing policies and procedures and provide adequate oversight. In addition, the SAIL system should include a module for tracking agent permit applications. The module should be able to monitor compliance with the processing times. The Bureau also needs to ensure that it complies with the Department's CORI (Criminal Offender Record Information) procedures, as well as the DOJ requirements.

Bureau Response: The Bureau agreed with the finding and has proposed specific corrective action.

**ISSUE #9: (REVISE THE PRIVATE POSTSECONDARY AND VOCATIONAL EDUCATION REFORM ACT OF 1989?) The current statutes under which the Bureau operates appear to be inordinately complex, vague, and contradictory.**

***Recommendation #9: The Joint Committee recommends that the Private Postsecondary and Vocational Reform Act of 1989 should be revised and rewritten to clarify its provisions, eliminate contradictions, redundancies, ambiguities and unnecessary provisions, and streamline it. Beyond that, the Act should be evaluated to determine what other changes are advisable to improve the effectiveness of the State's regulation – for example, the timeliness of the information such as annual reports, that are required to be given the Bureau.***

**Comments:** The Department reports that it has been pleased to join the JLSRC staff and others in undertaking a much needed redraft of the Bureau's enabling legislation. The Department states that it is its hope that a thorough redraft will provide the Bureau, schools and students with a streamlined, workable, clear regulatory design.

**ISSUE #10: (NEEDED IMPROVEMENTS TO THE STUDENT TUITION RECOVERY FUND AND THE BUREAU'S COMPLAINT HANDLING PROCESS?)** The Bureau's process for handling complaints has been criticized for being unresponsive and extremely slow.

**Recommendation #10:** *The Joint Committee recommends that the Bureau continue to implement the provisions of AB 201 (Wright – 2001) and AB 2967 (Wright – 2002) – in particular their requirements that the Bureau adopt regulations for operation of the STRF, and for specifying procedures for its disclosure and handling of complaints.*

**Comments:** Assembly Bill 201 (Wright), Chapter 621, Statutes of 2001, made a number of statutory changes to the Student Tuition Recovery Fund (STRF) that is administered by the Bureau. To implement AB 201, the Bureau was required to promulgate regulations that specify its procedures for complaint handling and complaint disclosure and regulations to implement the statutory changes to the STRF. The Bureau has advised the Department that the STRF regulations are pending at the Office of Administrative Law and are expected to be approved in Mid-April. The regulations to implement the complaint handling and disclosure provisions of AB 201 were modified to reflect changes to the statute that were effective January 1, 2003 as the result of AB 2967 (Wright), Chapter 581, Statutes of 2002. The Bureau has advised the Department that its legal counsel is currently drafting those regulations and expects to solicit public comment the end of April.

**ISSUE #11: (ELIMINATE INSTITUTION, PROGRAM, AND INSTRUCTOR APPROVAL BACKLOG?)** The time period for a school to obtain final approval from the Bureau is often extremely long.

**Recommendation #11:** *The Joint Committee recommends that the Bureau eliminate the remaining backlog in its degree-granting institution-related approvals and approval renewals. The Bureau should respond to the deficiencies in its approval process that have been found in the Department of Consumer Affairs Internal Audit - including the actions proposed by the Bureau in its response to that audit. Further, consideration should be given to having accreditation by United States Department of Education-approved regional accrediting bodies replace some of the Bureau's approval of degree-granting institutions, educational programs, and instructor requirements – while having the remainder of the Reform Act's requirements (including STRF assessments, student-related protections, information reporting) administered by the Bureau remain applicable to those institutions.*

**Comments:** The Bureau reported to the Legislature in April 2000 that it was processing its workload in a timely manner and within prescribed statutory timeframes – including its Degree-

Granting, Enforcement & Complaints, and Registered Institutions Programs, its Veterans Title 38 Program, and its Student Tuition Recovery and Closed Schools Units. However, it also reported that application processing and site visit backlogs existed within its Vocational Institutions Program. The Bureau prepared a Backlog Reduction Workplan to eliminate that backlog within an eighteen-month period, from July 1, 2000 through December 31, 2001.

The Legislature adopted Supplemental Report Language in the 2000 Budget Bill requiring the Bureau to report on a quarterly basis, its progress in eliminating the backlog as well as other operational and program information. The Bureau did so and reported in its Sunset Review report that it had eliminated most of the backlog, while continuing to process all current work in a timely manner. It is unclear how much, if any, backlog still remains at this time. A chart contained in the Bureau's Sunset Report shows that the Bureau received 1,380 applications for approval of postsecondary and vocational (degree-granting and nondegree-granting) institutions during FY 2001/02, approved 1,148 approval applications, approved 1,470 reapproval applications, and denied 31 applications (excluding applications that were withdrawn by applicants).

However, there can be a considerable period of time between the Bureau's receipt of a written application for a school's approval and the conduct of the actual site visit that is required before an institution can be granted final approval to operate. The Bureau states that it can relatively quickly make the necessary determination based on the application paperwork to give an institution a "temporary" approval that will let it operate while awaiting the site visit and eventual final approval decision. That time period can exceed a year though it still falls within the current statutory requirements relative to required timeframes. It should be noted that there appears to be no prescribed time frame for how long after a site visit the site visit team has to produce its report and recommendation to the Bureau for its decision on final approval. Given the lengthy time for even timely (within the statutory time limits) work processing – the experience of institutions waiting for a Bureau decision could be as if the Bureau still had a backlog. It may be worthwhile for the Bureau to look at whether it can readjust its personnel to effectuate quicker responses in the application processing.

**ISSUE #12: (NEED FOR OVERSIGHT FOLLOW-UP ON BUREAU'S PROGRESS?)**

**The current JLSRC review has found a number of problems and deficiencies, as have two audits of the Bureau, and specific corrective actions have been proposed to resolve them.**

***Recommendation #12: The Joint Committee recommends that the Bureau report back to the JLSRC staff on a periodic basis during 2003 on its progress in implementing the actions that have been proposed to resolve the various problems and deficiencies found during the JLSRC's review. The Bureau should provide the JLSRC with a summary report on its progress in correcting these problems and deficiencies at the JLSRC's Fall 2003 sunset review hearing.***

**Comments:** While the average sunset review cycle is every four years, the JLSRC in the past has required agencies to report back to it sooner on what specific actions have occurred on ongoing problems or issues. Given the numerous issues remaining to be resolved in the State's

regulation of private postsecondary and vocational education and the Bureau's administration of that regulation, it seems wise to have the Bureau present "progress report" to the JLSRC later this year to maintain the momentum of its current oversight efforts and to be able to determine what additional recommendations or actions need to be accomplished to ensure that this regulation is accomplished in an effective manner.